

ASSEMBLY BILL

No. 2727

Introduced by Assembly Member Bradford
(Coauthors: Assembly Members Bass, Ma, and Swanson)
(Coauthor: Senator Hancock)

February 19, 2010

An act to add Section 432.9 to the Labor Code, relating to applicant information.

LEGISLATIVE COUNSEL'S DIGEST

AB 2727, as introduced, Bradford. Applicant information: criminal history.

Existing law provides that an employer may not ask an applicant for employment to disclose, and an employer may not utilize in an employment-related decision, information concerning an arrest or detention that did not result in a conviction.

This bill, in addition, would prohibit an employer from denying an application for employment for the reason that the applicant has previously been convicted of a criminal offense unless the employer determines that there is a direct relationship between the prior conviction and the employment sought or the granting of employment would involve an unreasonable risk to property or persons. This bill would require the employer to consider specified factors when determining whether either of those 2 circumstances exist.

Because this bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 432.9 is added to the Labor Code, to
2 read:

3 432.9. (a) No employer, whether a public agency or private
4 individual or corporation, shall deny an application for employment
5 for the reason that the applicant has previously been convicted of
6 a criminal offense, unless the employer determines that either of
7 the following circumstances exist:

8 (1) There is a direct relationship between the criminal offenses
9 and the employment sought.

10 (2) The granting of employment would involve an unreasonable
11 risk to property or to the safety or welfare of specific persons or
12 the general public.

13 (b) In making a determination pursuant to subdivision (a), the
14 employer shall consider the following factors:

15 (1) The public policy of this state, as expressed in this section,
16 to encourage the employment of persons previously convicted of
17 criminal offenses.

18 (2) The specific duties of the employment sought.

19 (3) The effect, if any, that the conviction will have on the
20 applicant's fitness to perform the duties of the employment sought.

21 (4) The time between the conviction and the application for
22 employment.

23 (5) The age of the person at the time he or she committed the
24 offense that resulted in the conviction.

25 (6) The seriousness of the offense.

26 (7) Any information produced by or in behalf of the applicant
27 relating to his or her rehabilitation and good conduct since the
28 conviction.

29 (8) The legitimate interests of the employer to protect property
30 and the safety and welfare of specific individuals and the general
31 public.

32 (c) A violation of this section is subject to the provisions of
33 subdivisions (c) and (d) of Section 432.7.

1 SEC. 2. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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